



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/755,385 | 01/13/2004 | Pei-Chang Sun | SUNP3004/EM | 9954 |
| 23364 | 7590 | 07/14/2005 | EXAMINER | |
| BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314 | | | TRUONG, THANH K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3721 | |

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,385

Applicant(s)

SUN, PEI-CHANG

Examiner

Thanh K. Truong

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 5/2/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on May 2, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Liao (5,873,509).

Liao discloses an apparatus (figures 1-4) comprising:

an elongated housing 40 having a receiving chamber therein;

a nailing track 20, 30 fastened to a front end of the housing and having a bottom notch (the cut through at bottom of member 20) in communication with the receiving chamber (the assembly of members 20 and 30 provide a nailing track – figures 3 & 4);

a nail guide mounted in said receiving chamber for support nails loaded in said housing (figure 2 shows the nail guide (not number) in the chamber which nails 60 and U-shape nails 61 are loaded in the chamber);

a nail pusher 42 mounted inside the housing for pushing the loaded nails along the nail guide toward the bottom notch of the nailing track 20, 30;

wherein the nailing track further comprises a first nail hole 11, 41 upwardly extended from said bottom notch; and

a stop block 30 (member 30 also is a stop block) positioned in the bottom notch of said nailing track 20, 30, said stop block having a top side, a left side, and a right side, and a top cut groove downwardly extended from said top side and in communication with said first nail hole, the top, left and right sides of said stop block defining with a peripheral wall of said bottom notch of said nailing track 20, 30 a second nail hole 21 (together the assembly 20, 30 comprising: a nailing track with a sliding groove 31 having a notch at the bottom and a stop block);

when T-nails 60 are used and loaded in the housing, the loaded T-nails are forced by said nail pusher 42 to pass through said first nail hole and the top cut groove; when U-nails 61 are used and loaded in the housing, the loaded U-nails are forced by the nail pushers 42 to pass through the second nail hole (figure 2, column 3, lines 52-55 and lines 20-24).

Liao further discloses: nailing track 20, 30 comprises a sliding groove 31 longitudinally formed in the front side, the first nail hole is longitudinally formed on a middle of the sliding groove (figures 3 & 4); the stop block 30 is affixed to a front end of the nail guide (figures 2-4); a nail clamp 33 for clamping a lower part of a front T-nail of the nails been loaded in the housing (column 3, lines 50-52); the nail clamp is pivoted to the front end of the nail guide, comprising two parallel clamping walls (member 33 have thickness, thus has wall on both side), the clamping wall each having a front side extending into the top cut groove 32 of the stop block 30 to hold down the body of the front T-nail 60; the clamping wall of the nail clamp each have a sloping front side sloping

downwardly forwards 332 and the nail clamp being turned inwards and received in the top cut groove 32 of the stop block 30 upon firing of the front T-nail.

Response to Arguments

Applicant's arguments filed May 2, 2005 have been fully considered but they are not persuasive.

4. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the Applicant's argument on paragraphs 3 and 4 of page 7, and paragraph 1 of page 8) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. In response to the applicant's argument that "the guide plate 33 is located in stopper 30 while in the presently claimed invention it is located in nailing track 20 which is fixedly fastened to the front end of the housing. Thus, the operation and structure are clearly different and not anticipated by Liao. Moreover, there is absolutely no Motivation to make the necessary modifications to arrive at the presently claimed invention.", the examiner disagrees.

Again, as mentioned in paragraph 4 above, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Item 33 in Liao is construed as a nail clamp 33 (not the guide plate 33 as suggested by

the Applicant's argument) for clamping a lower part of a front T-nail of the nails been loaded in the housing as recited in claim 4. Member 30 in Liao is construed as part of nailing track 20, 30 and also a stop block 30. Furthermore, the Applicant's argument that "there is absolutely no Motivation to make the necessary modifications to arrive at the presently claimed invention" is irrelevant because this is not a 103 rejection.

6. In response to the Applicant's argument that "the present claimed invention requires a first nail hole upwardly extending from the bottom notch which is clearly and distinctly different from the arrangement required by Liao", the examiner disagrees.

Again, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Figure 2 in Liao clearly shows a bottom notch (the cut through at bottom of member 20) and the first nail hole clearly extending upwardly from the bottom notch as recited in claim 1.

7. Similarly, the rest of the Applicant's argument can be response by stating that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Finally, there is no record of priority document filed on August 5, 2004 (as claimed by the Applicant).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

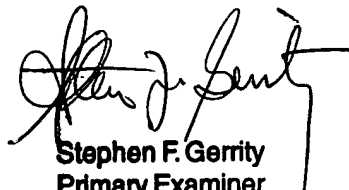
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

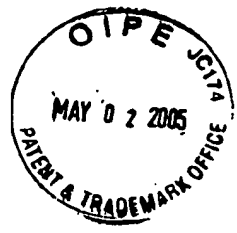
Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tkt
July 10, 2005.


Stephen F. Gerrity
Primary Examiner
571-272-4460

DRAWING APPROVED tsc 7/10/05



"REPLACEMENT SHEET"

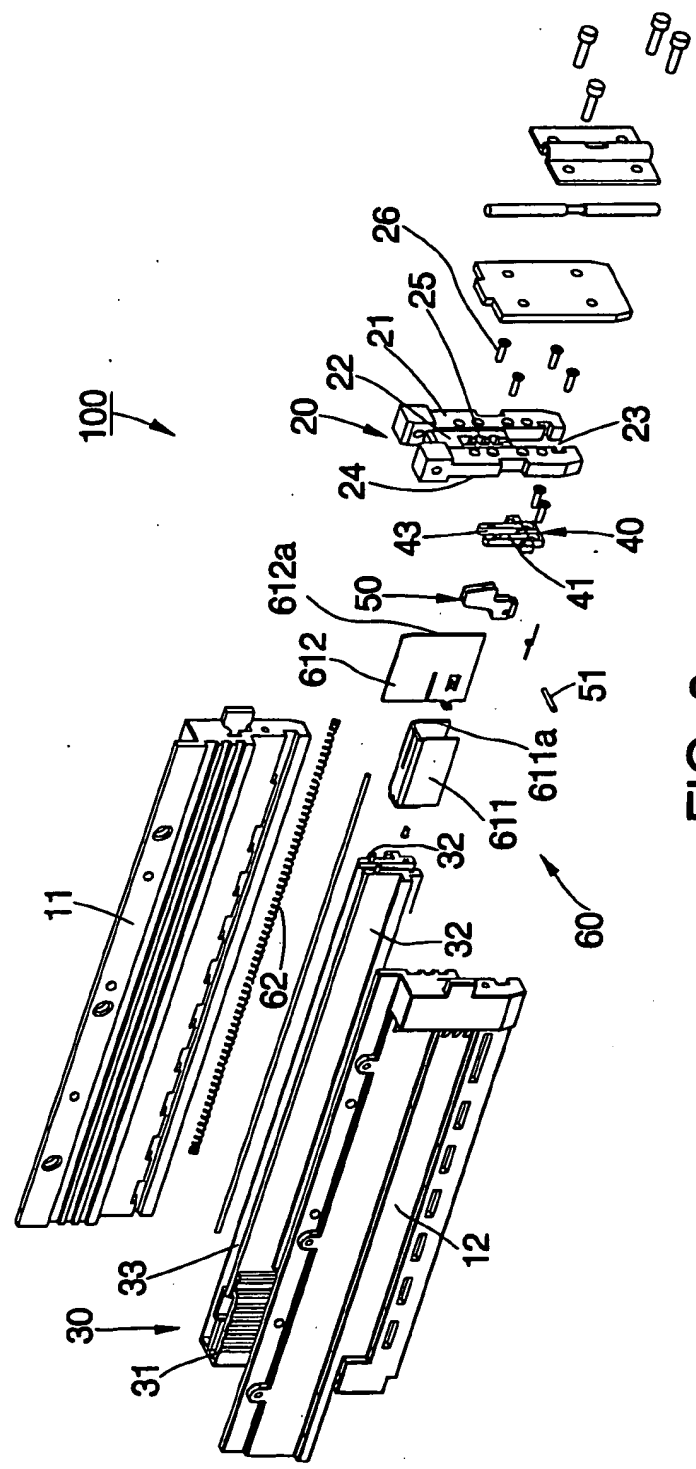


FIG. 3